

**DEFENDANT'S
EXHIBIT B**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRETON PETERSEN,

Plaintiff,

vs.

THE CLEVELAND INSTITUTE OF
ART,

Defendant.

) CASE NO. 1:08 CV 01217
)
) JUDGE SOLOMON OLIVER
)
)
) AFFIDAVIT OF ALMUT ZVOSEC
)
)
)

I, ALMUT ZVOSEC, being first duly sworn, do hereby depose and state as follows:

1. I am employed by the Cleveland Institute of Art ("CIA") as the Vice President for Business Affairs and Chief Financial Officer. I have been employed by CIA for the last 18 years. As part of my administrative and operational responsibilities, I have knowledge of the matters stated herein.

2. For the 2007-2008 academic year, CIA employed 18 persons in positions known as technical assistants, and referred to for short as "TAs". The number of TAs that CIA has employed has varied over the last 15 years.

3. The duties of each TA vary widely, as the duties are specific to the needs of each instructional department. This makes the qualifications for each TA position unique. This holds true for the TAs employed in 2007-2008, as well as TAs who have worked for CIA over the last 15 years.

4. CIA's areas of study are currently divided into 6 "environments", and most of the environments are divided into two or more departments. Most departments have their own TA. Some TAs serve more than one department. There are some TAs that serve a full environment.

5. Each TA may have a different supervisor, depending upon the area in which they work. TAs typically report to individual department or environment chairs. Some TAs, such as Plaintiff Breton Petersen, had more than one direct supervisor.

6. CIA has undergone numerous restructures of its academic study areas over the last 15 years. Some changes have been the result of evolving technologies, including the dramatic increase in computer applications used in art over the last 15 years. Some changes have resulted from the differing policies and priorities of the academic leadership in place at the particular time. The number, function, duties, expectations, supervision, schedules, hours, contracts, terms and conditions of employment and record-keeping practices of or relative to TA's has likewise varied between departments as well as changed over the years.

7. The TA positions are not interchangeable. That is, one TA would not have the requisite skills, training and experience to perform the work of another TA. For example:

- a. Some TAs are responsible for the maintenance, operation and oversight of the use of specialized equipment and machinery, such as pottery kilns, ceramics furnaces, carpentry equipment, metal welding equipment, large graphic design printers and computer labs. For instance, a TA that manages a computer lab would not have the requisite skills, experience and training to operate and train students in the safe use of carpentry equipment such as table saws, planers, sanders, etc.

- b. Some TAs are responsible for supervising and overseeing the work of workstudy students; other TAs do not have this supervisory responsibility.
- c. Some TAs are responsible for overseeing and tracking departmental expenditures; other TAs are not.
- d. Some TAs are responsible for conducting OSHA-required safety training; other TAs are not.
- e. Some TAs have taught courses in the continuing education department; other TAs have not.

8. Over the last 15 years, the persons who supervise TAs have changed as department heads and chairs have changed. Each supervisor establishes new and differing duties, expectations and levels of responsibility for the TA that he or she supervises. Thus, a TA's specific job duties vary depending upon who the TA's supervisor is or has been.

9. There is regular and rapid turnover in the TA position, due to the nature of the position. It is often a stepping-stone position for graduate students in their art career paths. Many students work as a TA after completing an undergraduate degree, and before applying to graduate school. A benefit for all TAs is access and use of CIA's resources, facilities, equipment and computers and software to create portfolios for applying to graduate school.

10. The manner of and arrangements regarding TA pay has changed over the last 15 years, as have the general employment policies and practices relative to TAs.

11. The number of hours and the schedules TA's work vary greatly, and has varied greatly over the last 15 years. For example, for the 2007-2008 school year:

- a. One TA was scheduled 18 hours per week;
- b. One TA was scheduled 20 hours per week;

- c. One TA was scheduled 22 hours per week;
- d. Seven TAs were scheduled 30 hours per week;
- e. One TA was scheduled 32 hours per week;
- f. One TA was scheduled 35 hours per week;
- g. One TA was scheduled 38 hours per week; and
- h. Five TAs were scheduled 40 hours per week.

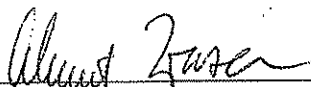
12. TAs do not receive the same rate of pay, and rates of pay for TAs have varied widely over the last 15 years.

13. All TA contracts are not the same, and have not been similar for the last 15 years. For example, Plaintiff Breton Petersen signed six different TA contracts over his three school years of employment, and those contracts contained varied terms and conditions, different formats, different language, and different responsibilities. The same person from CIA did not negotiate the terms of each contract. Each TA has had varied and different contracts and terms over the last 15 years.

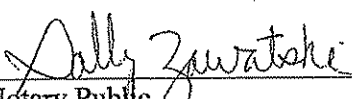
14. Since TAs have been paid on a salaried basis, there are no uniform records regarding the hours TAs have worked.

15. I am making this affidavit voluntarily and of my own accord. I have read this affidavit and have been given the opportunity to make any changes I require. This affidavit is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.


Almut Zvosec

Sworn to and subscribed before me this 4 day of February, 2009.


Notary Public

SALLY ZAWATSKI
NOTARY PUBLIC, STATE OF OHIO
Recorded in Lake County
My Comm. Expires Dec. 7, 2009